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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,653	06/30/2000	Jeff Schulz	FORE-69	1758

7590 08/19/2003
Ansel M Schwartz
One Sterling Plaza
201 N Craig Street Suite 304
Pittsburgh, PA 15213

EXAMINER

NGUYEN, ALAN V

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 08/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/609,653

Applicant(s)

SCHULZ, JEFF

Examiner

Alan Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,8 and 16 is/are rejected.
- 7) ☒ Claim(s) 2-7 and 9-15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 06/30/2000 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 8, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fatehi et al (US 6,185,021) in view of Oren et al (US 5,844,887), herein Fatehi and Oren.

(a) Fatehi discloses an optical translator array that utilizes a number of fabrics to switch signals as shown in figure 5 and elements 531, 540 (switch of network for switching packets using a plurality of fabrics). An optical-to-electrical converter/bit disinterleaver arrangement (501, 500) accepts a high-rate, optical signal and uses parallel processing by feeding out multiple substrate streams to the fabrics. Fatehi explains on column 5, lines 1-9 the method of separating data to each of the fabrics (a port card connected to the fabrics; switch portions of packets).

(b) Fatehi refers to the data being transmitted as a signal. He does not clearly state what type of data the signal is carrying. Fatehi also fails to disclose a mechanism that continues to transmit correct data in the event of a fabric failure. Note that one of ordinary skill in the art would seek a way to transmit as few errors as possible.

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- (c) Oren et al teaches a method of providing N+1 redundancy through the use of a redundant fabric card that is implemented if a malfunctioning fabric card is detected (column 19, lines 45-55).
- (d) It would have been obvious to one having ordinary skill in the art at the time the invention was made for Fatehi's apparatus to accept and switch data packets, the motivation being a trend to migrate towards switches having more robust capabilities. It also would have been obvious to one of ordinary skill in the art to include in Fatehi's system a redundancy mechanism to tolerate failure of a fabric and still send correct data, in order to increase data transmission reliability and insure accurate data as taught by Oren.

Allowable Subject Matter

Claims 2-7 and 9-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to redundancy and the use of multiple fabrics:

Loebig (US 5,406,563)

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Venkataraman (US 5,802,052)

Ganmukhi et al (US 5,953,314)

Minyard (US 6,553,508)

Castro et al (EP 1 052 872 A2)

Kumar et al (IEEE article)

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Nguyen whose telephone number is 703-305-0369. The examiner can normally be reached on 8am-5pm ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 703-305-4744. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

an

August 11, 2003



HASSAN KIZOU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600